

~~Conf~~
Conf
Pam
go
#53

Duke University Libraries
(Circular)
Conf Pam q#53
D99123580.


AUDITOR'S OFFICE, Richmond, Va.

April 5th, 1864.

SIR:

The nineteenth section of chapter 108 of the Code of Virginia (edition of 1860) provides, that "every commissioner of the revenue shall make an *annual* registration of the births and deaths in his district." The same section further provides, "in order to make the registration, that the commissioner, *when he ascertains the personal property subject to taxation, he shall ascertain the births and deaths that have occurred in the year ending on the 31st day of December preceding.*"

One of the effects of the act passed on the 3d day of March 1864, suspending taxation, is to produce a conflict in the provisions of this section. The first clause requires an *annual registration*, and the second clause requires the information to be ascertained only when the commissioner is ascertaining personal property subject to taxation.

If the commissioner is to ascertain the births and deaths only when he ascertains subjects of taxation, he would not, under the operation of the act suspending taxation, have the information necessary to make his register—thus forcing the conclusion that all the duties relating to births and deaths required of commissioners are subordinate to the duties of listing property for taxation, and to be performed only when such lists for taxation are being collected, and that the law suspending the lists for taxation necessarily suspends the duty of ascertaining births and deaths.

Whether this construction be right or wrong, the interests of the state will not be injuriously affected by postponing the duties under the registration act; and you will therefore abstain from ascertaining the births and deaths within your district for the present year.

COUNTY LEVY.

The suspension of state taxation for the present year has deprived the county courts of the basis of their usual levy on state taxes upon the value of property. Many courts, under the apprehension that the value of property may be ascertained under an order of court, and that it is lawful to levy upon such value, have applied to this office to furnish the necessary blank books for that purpose; and I have adopted this mode to answer, merely to say that this office is not in possession of books for the purposes indicated; and if it were, I would have no authority to furnish them.

I have no doubt of the authority of the court to ascertain persons and to make a levy thereon; but I trust that I may be permitted to suggest whether it would be lawful to levy upon the value of property ascertained under an order of court. By an act passed on the 4th of March 1864, the court is authorized to make such levy, by adopting the assessment of state taxes for any previous year as a basis for the levy. I transmit a copy of the act referred to herewith.

I am, very respectfully,

Your most obedient servant,

J. M. BENNETT,

Aud. Pub. Accounts.

Penn
3^o
#5

AN ACT

To amend and re-enact the 5th section of chapter 53 of the Code (edition of 1860), in relation to County Taxes.

[Passed March 1 1861.]

1. Be it enacted by the general assembly, that the fifth section of chapter fifty-three of the Code (edition of eighteen hundred and sixty) be amended and re-enacted so as to read as follows:

“§ 5. After an order shall have been made by the court of any county at one term, for the justices to meet at the next term and consider the expediency of levying upon lands and other property, if at such next term a majority of the acting justices be actually present and concur therein, the court may order the levy on free male persons over the age of sixteen years, and on all slaves, land and other property assessed with state tax within the county and without the limits of a town that provides for its poor and keeps its streets in order, and on the interest and profits mentioned in the forty-ninth, the yearly income in the fifty-first, and fees in the fifty-seventh sections of the thirty-fifth chapter, on which taxes are assessed against persons residing in the said county and without the limits of such town. The order of levy under this section shall be for a certain sum on each free male person over the age of sixteen years, and on other subjects, including slaves, for a certain per centum upon the amount of taxes thereon. If the state shall not by law impose taxes upon lands, slaves and other property for the year in which the court may make such levy, the court may adopt the assessment of state taxes for any previous year, as a basis for the levy, under this section, on land, slaves and other property.”

2. This act shall be in force from its passage.

7251

permalife.
pH 8.5